

**Statement:**

The Arizona Procurement Code, Article 9 outlines the administrative process for vendors to file claims or protests against the State. It is the responsibility of the State to review and respond to all claims and protests within the time frames identified.

**Discussion:**

The State Procurement Office wishes to standardize the format and approach in response to protests. To assist in the process, this policy will focus primarily on format and writing techniques rather than the process steps and time lines identified in Article 9.

***Procurement Officer's Decision***

The Procurement Officer's Decision should follow the following order: Introduction, Facts, Response, Conclusion.

- I. **Introduction** – This should briefly provide reference to the protest and should state the decision of the Procurement Officer.

Example: “On December 1, 2001, Company ABC filed a protest under Request for Proposals No. A1-134. The Procurement Officer denies the protest for the reasons stated in the remainder of this decision.”

- II. **Facts** – This section should identify the material facts and events of the solicitation process; such as, RFP issuance dates, RFP opening date, number of solicitations issued, Pre-Proposal date, Amendments, number of offers, number of awards, contract award date. The facts should be concise and to the point and should reference only the relevant areas of the protest.

Example: Request for Proposal (RFP) Number A1-134 was issued on September 23, 2001 and mailed to 243 vendors. The RFP opened on October 30, 2001 with responses from 7 offerors. No amendments were issued and award was made to 3 offerors after conducting Best and Final Offers.

- III. **Response** - This section should focus on the areas of controversy or dispute between the Protestant and the State. Each issue identified by the Protestant must be addressed in the Procurement Officer's response. The issue should be worded in an objective, simple, non-argumentative and comprehensive manner. The identification of all of the issues is a critical aspect of the Decision.

The points identified should be brief, focused, and to the point. Again, the tone should not be argumentative or excessively defensive but should be objective and neutral. The response should be concise, assertive, direct, unemotional, factual and thorough. Each issue should be identified prior to the Procurement Officer's response. Issues may be combined if the response to the issues is the same. However, all issues must be answered in the State's response. Also, the an explanation as to why you are correct should be stated.

Example: "Company ABC claims the State did not issue Amendment 1 to all registered vendors. An amendment was not necessary for RFP A1-134 so, all registered vendors were not notified of an amendment."

- IV. Conclusion** - This section indicates the decision of the State and identifies the action that may be taken by the Protester. Also, the Procurement Officer should explain why the Protester is not entitled to the remedy it seeks.

Example: Based upon the reasons stated above, the Protest is hereby *sustained or denied*. The Protester may appeal this decision to the Director of the Department of Administration within five calendar days of receipt of this decision. A copy of the Appeal should be sent directly to the Procurement Officer. Any appeal to this decision must be made in accordance with A.A.C. R2-7-909.

Effective this \_\_\_\_\_ day of December, 2001.

### ***Procurement Officer's Report***

The Procurement Officer's Report should follow a similar format to the Procurement Officer's Decision, with the following modifications. The order should be: Introduction, Response, Recommendation.

- I. Introduction** – This should briefly provide reference to the protest and should state the decision of the Procurement Officer.

Example: " Company ABC filed an appeal to the Director of the Department of Administration regarding RFP A1-134, Procurement Officer's Decision dated December 25, 2001."

- II. Response** – This section should discuss the issues identified in the protest with no additional issues raised. If additional issues have been raised in the appeal the issues should be addressed, but identified as not being included in the original protest. Again, each issue should be restated followed by the State's response and explanation.

- III. Recommendation** – This section should indicate the recommendation of the Procurement Officer to the Director.

Example: "Based upon the reasons stated, the Procurement Officer recommends that Company ABC's appeal be denied as the factual or legal error in the Procurement Officer's decision has not been provided or supported.

The Appellant may file comments to this Procurement Officer's Report to the Director of the Department of Administration within seven calendar days of receipt of this report. A copy of the comments should be sent directly to the Procurement Officer. Comments to this Report must be in accordance with A.A.C. R2-7-912.C.

Effective this \_\_\_\_\_ day of January, 2002.